
Participation Schedule

1 Applicability of Parts

- (a) This Participation Schedule is divided into 5 Parts: the General Part and Part 1 to Part 4.
- (b) The General Part and Part 1 applies to the Sub-Division as a whole.
- (c) Part 2 to Part 4 applies to Members of the Sub-Division whose entitlements to Benefits were set out in the corresponding provisions of the Transferring Fund Rules.

General Part

1 Commencement Date

The Commencement Date is 1 July 2004.

2 Sub-Division Employers

The only Sub-Division Employers at the Commencement Date are the:

- (a) Employer; and
 - (b) Associated Employer.
-

3 Definitions

A word or expression which is defined in the Rules or the Participation Agreement has, when used in this Participation Schedule, the meaning given to it under the Rules or the Participation Agreement, except as follows:

Clause means a provision of the General Part of this Participation Schedule. For the avoidance of doubt, a Clause does not mean a clause of the Participation Agreement that is not a Clause of this Participation Schedule. "Clauses" has a corresponding meaning.

General Part means the General Part of this Participation Schedule.

Part means any or all of the General Part, Part 1, Part 2, Part 3 or Part 4, as the context requires.

Part 1 means Part 1 of this Participation Schedule.

Part 2 means Part 2 of this Participation Schedule.

Part 3 means Part 3 of this Participation Schedule.

Part 4 means Part 4 of this Participation Schedule.

Section means a provision of Part 1 to Part 4.

Transferring Fund Rules means the governing rules of the Transferring Fund which were in force immediately before the Commencement Date.

4 Status of Participation Schedule

4.1 Overriding effect of Parts within Participation Schedule

- (a) Subject to Clause 4.1(b), the Sections of Part 1 to Part 4 shall be read and construed and have the same force and effect as if set out in the General Part of this Participation Schedule.
- (b) If there is a conflict between a Clause of the General Part and a Section of Part 1 to Part 4, the Clause of the General Part prevails to the extent of the conflict.

- (c) If there is a conflict between a Section of Part 1 and a Section of Part 2, Part 3 or Part 4, that Clause in Part 1 prevails to the extent of the conflict.

4.2 Overriding effect of Participation Schedule

- (a) This Participation Schedule overrides the provisions of Division A and Division F of the Rules to the extent of any conflict.
- (b) Without limiting Clause 4.2(a), the following Rules are not applicable to this Sub-Division:
 - (1) F2.2;
 - (2) F3.4;
 - (3) F4;
 - (4) F5;
 - (5) F6.5(a); and
 - (6) A10.1

4.3 Transferring Fund Rules

- (a) The Participation Agreement and the Rules are intended to set out the Benefits of Members with effect on and from the Commencement Date.
- (b) If the Employer and the Trustee agree that the operation of any provision of the Participation Agreement or the Rules (including the omission in the Participation Agreement or the Rules of a provision from the Transferring Fund Rules or relevant benefit summaries) would have the effect that a Member's Benefits are not set out as intended (or so that a successor fund transfer would not have been possible), the Trustee may, with the consent of the Employer, adjust the operation of the Participation Agreement or the Rules in such manner or take such other action as the Trustee and the Employer agree is necessary to achieve the stated intention.

4.4 Schedules within the Participation Schedule

The schedule to Part 4 shall be regarded as included in Part 4.

5 Other matters that override or supplement the Rules in Division A or Division F for this Sub-Division

5.1 Interpretation

In this Participation Schedule where the context requires or admits the words and expressions defined in Part 1 to Part 4 have the meanings therein assigned to them respectively.

5.2 Admission of Associated Employers

- (1)
 - (a) The Trustee and the Employer may enter into an agreement in such manner and form and subject to such conditions as may be acceptable to the Trustee and the Employer with any Related Person of the Employer or other Person which the Employer deems it is desirable and convenient to include in the Sub-Division as an Associated Employer.
 - (b) Subject to any conditions imposed under such agreement or this Participation Schedule, such Employees of an Associated Employer as become eligible as provided in such agreement or the Participation Schedule or Rules shall be eligible to become Members of the Sub-Division.
 - (2) Any such agreement made between the Trustee, the Employer and an Associated Employer as provided in this Clause 5.2 may be amended or replaced by way of a subsequent agreement between the parties thereto or in the manner provided in Clause 5.5 as if it was a part of this Participation Schedule.
 - (3) If -
 - (a) a resolution is passed or an order is made for the winding up of an Associated Employer or a scheme of arrangement providing for the dissolution of an Associated Employer is approved by a court; or
 - (b) an Associated Employer ceases to carry on business for any reason,the Trustee, with the approval of the Employer, may enter into an agreement with any Related Person or other Person which the Trustee consider succeeds the Associated Employer for that successor to take the place of the Associated Employer under this Participation Schedule and the Rules. Such an agreement shall be in a form acceptable to the Trustee and shall be binding on the Trustee and the Employer, Members and other interested persons.
 - (4) Without limiting Clause 5.3, if an event provided for in Clause 5.2(3) occurs in relation to an Associated Employer but no agreement is entered into as provided in that Clause within 90 days (or such other period as the Trustee thinks fit) after the date the relevant event occurred, the Trustee shall be deemed to have received on the last day of such period an effective notice from the Employer in accordance with sub-clause (1)(b) of Clause 5.3 that the Associated Employer's contributions to the Sub-Division had been entirely and permanently terminated with effect on that date.

5.3 Termination, reduction or suspension of Employer contributions

- (1) Without limiting Clause 5.6:
 - (a) an Employer may at any time by written notice given to the Trustee and either generally or in respect of any Member or Members named or described in the notice (or then or thereafter falling within a group or class of Members described therein) -
 - (i) terminate all or any of its contributions to the Sub-Division; or

- (ii) reduce or suspend all or any of its contributions to the Sub-Division to the extent and either indefinitely or for the period specified in that notice,

and such a notice shall take effect on the date (hereinafter called the "Notice Date" of the notice) which is the later of the date which is 6 months (or such lesser period, if any, as the Trustee may allow) after the notice is received by the Trustee and the date specified in that notice for such purpose, but nothing in this Clause 5.3 shall affect the Employer's liability in respect of contributions due from that Employer before the Notice Date.

- (b) if an Associated Employer ceases to be a Related Person of the Employer, the Employer may by written notice given to the Trustee terminate all of that Associated Employer's contributions to the Sub-Division and such a notice shall take effect on the date (hereinafter called the "Notice Date" of that notice) which is the later of the date the notice is received by the Trustee and the date specified in the notice for such purpose, but nothing in this paragraph (b) shall affect the Employer's or Associated Employer's liability in respect of contributions due from that Employer or Associated Employer before the Notice Date.

(2) On and from the Notice Date of such a notice -

- (a) in the case of a notice of termination of contributions, unless the Trustee determines otherwise either generally or in any particular case, no contributions shall be accepted from a Member and no Employee shall be admitted as a Member during or in respect of any period when an Employer's or Associated Employer's contributions are or would be terminated in respect of that person pursuant to such a notice;
- (b) in the case of reduction or suspension of contributions, unless the Trustee determines otherwise either generally or in any particular case, no Employee shall be admitted as a Member and the Trustee may refuse to accept contributions from a Member during any period when an Employer's or Associated Employer's contributions are or would be reduced or suspended in respect of that person pursuant to such a notice;
- (c) the Trustee, after obtaining the advice of the Actuary, may reduce any benefit which is or may become payable to or in respect of any person named or described in such notice and any other person whom the Trustee considers is affected by such notice to such extent and in such manner as the Trustee considers to be appropriate and equitable; and
- (d) the Trustee may withhold payment of all or part of a benefit until the Trustee has determined whether any such reduction is required therein as a result of such a notice and, if so, have effected that reduction to their satisfaction.

Any reduced benefit determined in accordance with this sub-clause shall be in lieu of and in full satisfaction of any benefit which would or might have been or become payable from the Sub-Division but for the operation of this Clause.

5.4 Damages and Compensation

Nothing in this Participation Schedule or in the Rules shall in any way affect the right of a

Member or a Member's legal personal representatives or other person to claim damages or compensation by common law or under an Employees' Compensation Act or any other statute in force governing compensation to a Member injured or deceased from an accident arising out of or in the course of the Member's employment with an Employer or Associated Employer and the amount payable in terms of this Participation Schedule and the Rules shall not be reduced by reason of any payment of damages or compensation as aforesaid.

5.5 Amendment of Participation Schedule or Rules

- (1) Subject to this Participation Schedule and the Rules, the Trustee may at any time by deed alter the provisions of this Participation Schedule (including this Clause) and the Rules and may add fresh provisions thereto or delete provisions there from provided that no such alteration addition or deletion shall be made unless the Actuary certifies that the total value of the rights of Members and their Dependants secured by the Sub-Division immediately before the time of making that alteration addition or deletion is not reduced.
- (2) Subject to this Participation Schedule and the Rules, the Trustee may at any time by deed alter add to or delete any of the provisions of this Participation Schedule and the Rules in order to ensure -
 - (a) that the income of the Fund enjoys the maximum concessions or relief lawfully available in respect of taxation under the Income Tax Assessment Act 1936 or the Income Tax Assessment Act 1997 or similar legislation dealing with taxation;
 - (b) that as far as may lawfully be arranged this Participation Schedule and the Rules and the contributions and benefits payable thereunder shall be exempt from any estate probate death stamp or succession tax or duty or the impact of any such tax or duty is reduced; and
 - (c) this Participation Schedule and the Rules comply with or conform to any present or future State or Commonwealth law governing or regulating the operation or maintenance of superannuation, pension or like funds,and any such alteration addition or deletion shall for the purpose of this Clause be deemed not to reduce the value of the rights of Members and their Dependants accrued at the time of making that alteration addition or deletion and no certificate or consent pursuant to Clause 5.5(1) shall be required.
- (3) Notwithstanding anything expressed or implied to the contrary in Clause 5.5(1) or Clause 5.5(2), no alteration, addition or deletion shall be made pursuant to Clause 5.5(1) or Clause 5.5(2) which, in the opinion of the Employer, would increase the liabilities or obligations of an Employer or prejudice any power, right, discretion or authority exercisable by an Associated Employer without the prior written consent of the Employer.
- (4) Any alteration, addition or deletion made in accordance with Clause 5.5(1) or Clause 5.5(2) shall take effect on the date the applicable deed is executed or such earlier or later date, if any, as may be specified in that deed for that purpose.
- (5) Notwithstanding any other provision of this Clause 5.5 no amendment to the Participation Schedule and Rules shall be made other than in accordance with the Relevant Law

5.6 Discontinuance of the Sub-Division

The Employer reserves the right to discontinue the Sub-Division provided that the Employer shall give each Member at least six (6) months' notice in writing of its intention to discontinue the Sub-Division. Upon discontinuance of the Sub-Division the affairs thereof shall be wound up and, subject to payment of all costs charges and expenses which may then be owing, the balance of the assets of the Sub-Division, if any, shall be applied by the Trustee in making provision for benefits amongst all the Members and, in applying such balance of the assets of the Sub-Division, the Trustee shall have regard to the equitable entitlement of each such Member having regard to such matters as the Trustee consider relevant, including without limitation the length of the time for which each such Member contributed to the Sub-Division and the total contributions of each such Member.

5.7 National or social insurance or pensions

- (1) Subject to the Relevant Law, if during the continuance of the Sub-Division any Government or other scheme for the provision of superannuation retiring allowances pensions or any other benefit similar to a benefit provided by the Sub-Division for (inter alia) Members of the Sub-Division and/or their Dependants be introduced or improved and if an Employer or Associated Employer is compelled to pay either directly or indirectly any portion of the contributions premiums or other costs of such introduction or improvement the Employer if it so desires may not more than 12 months after the date of such introduction or improvement give written notice to the Trustee of its intention from a date on or not more than 12 months after the date of such introduction or improvement to reduce the benefits provided by the Sub-Division for all or any of such Members and/or their Dependants to an extent not exceeding the extent of the benefit provided for such Members and/or their Dependants under the Government or other scheme pursuant to such introduction or improvement **PROVIDED THAT** if the benefits payable under the Sub-Division are of a different form or nature from the benefits payable under the Government or other scheme the extent to which the benefits payable under the Sub-Division may be reduced by the Employer pursuant to this Clause 5.7(1) shall be determined by the Actuary. Such determination shall be communicated by the Actuary to the Employer and the Trustee in writing.
- (2) In the event of a reduction in the benefits provided by the Sub-Division pursuant to Clause 5.7(1) any Members obliged to contribute to such Government or other scheme shall be relieved of their obligation to contribute under the Participation Schedule and Rules to the extent (if any) determined by the Actuary not exceeding the extent of the contributions or additional contributions which they are compelled to pay under the Government or other scheme pursuant to the introduction or improvement in respect of which benefits have been reduced. Any such determination in writing and Members shall be advised by the Trustee of the extent of the relief granted to them.

- (3) Any reduction in the benefits provided by the Sub-Division made under the powers conferred by Clause 5.7(1) and any reduction in the contributions payable by Members made under the powers conferred by Clause 5.7(2) shall be evidenced by a deed or other written instrument altering varying making additions to or deletions from this Participation Schedule and the Rules for the time being in force. Such deed or instrument shall be executed or made by the Employer and the Trustee and any alteration variation or deletion made thereby shall notwithstanding anything expressed or implied to the contrary in Clause 5.5 be valid and binding on the Employer, Associated Employers, the Trustee, the Members and other interested persons.

Part 1 – General provisions

1.1 Application of Part 1

This Part 1 shall apply to and in respect of each Member of the Sub-Division.

1.2 Interpretational Provisions

1.2.1 Definitions. In the Participation Schedule, unless the contrary intention appears or the context requires otherwise -

"Accumulated Contributions" means -

- (a) in relation to a Full Member at any particular date the sum of the contributions paid pursuant to Section 3.3.1 (or deemed to have been paid) by the Member to the Sub-Division (and to the Transferring Fund pursuant to rule 3.3.1 of the Transferring Fund Rules in respect of the period prior to the Commencement Date) together with compound interest thereon at the Declared Rate as provided in Section 1.11.2 on and after the Commencement Date (and rule 1.11.2 of the Transferring Fund Rules in respect of the period prior to the Commencement Date) **PROVIDED THAT** a Full Member shall be deemed to have contributed to the Transferring Fund and the Sub-Division (as applicable) at the Selected Rate during any period in which the Member was deemed to be Totally and Temporarily Disabled in terms of Section 3.6 (or rule 3.6 of the Transferring Fund Rules in respect of the period prior to the Commencement Date); and
- (b) in relation to a Previous Fund Member at any particular date the sum of the contributions paid pursuant to Section 4.3.1 (or deemed to have been paid) by the Member to the Sub-Division (and to the Transferring Fund pursuant to rule 4.3.1 of the Transferring Fund Rules in respect of the period prior to the Commencement Date) together with compound interest thereon at the Declared Rate as provided in Section 1.11.2 (and rule 1.11.2 of the Transferring Fund Rules in respect of the period prior to the Commencement Date) **PROVIDED THAT** a Previous Fund Member shall be deemed to have contributed to the Transferring Fund and the Sub-Division at the Selected Rate during any period in which such Member was deemed to be Totally and Temporarily Disabled in terms of Section 4.6 (or rule 4.6 of the Transferring Fund Rules in respect of the period prior to the Commencement Date).

"Actual Annual Salary" means in relation to a Member as at any particular date the annual rate of remuneration at which the Member is or was then employed by the Employer or Associated Employer but, except to the extent approved by the Employer, shall not include any bonus, payment for overtime, allowance for cost of living, travelling expense or other remuneration allowance or emoluments determined by the Employer to be of an extraordinary nature.

"Administrators" shall mean those appointed by the Trustee to administer the Fund.

"Alternative Plan" means the Superannuation Scheme embodied in the Superannuation Act 1976.

"Associated Employer" means any Related Person of the Employer and any other Person which has become an Associated Employer for the purposes of the Participation Schedule and the Rules in accordance with Clause 5.2 of the Participation Schedule and includes the Associated Employer named in the Participation Agreement.

"Change Date" means 11th April 1990.

"Change Date Member" means a Member who last became a member of the Transferring Fund before the Change Date and who became a Member of this Sub-Division on the Commencement Date.

"Child" means any child of the Member (including an adopted child and a child born after the Member's death).

"Commissioner" means the Insurance and Superannuation Commissioner appointed under the Insurance and Superannuation Commissioner Act 1987, or a person for the time being acting in that position or capacity under that Act.

"Date of Commencement" means 1st March 1983, being the date on which the Transferring Fund is deemed to have commenced.

"Declared Rate" means:

- (a) in the Transferring Fund, a rate of interest of 8% per annum up to 1st July 1988 and thereafter the net earning rate on the investments of the Transferring Fund (as determined by the Transferring Trustee with the approval of the Employer after obtaining the advice of the Actuary); and
- (b) in this Sub-Division, the rate determined by the Trustee after obtaining the advice of the Actuary; or
- (c) in any case, such other rate as may be determined by the Trustee with the approval of the Employer in respect of any period for the purposes of the whole or any particular provision of the Participation Schedule and the Rules **PROVIDED THAT**, without limiting the generality of the foregoing, the Trustee with the approval of the Employer may prospectively determine a Declared Rate on an interim basis in respect of a particular period and for a particular purpose, and may subsequently and retrospectively determine a Declared Rate on a final or declared basis in respect of that period and for that purpose.

"Deferral Date" means the date at which a Member's benefit (including a preserved benefit) can be paid (or commence to be paid) under the Relevant Law.

"Employee" means -

- (a) a full-time statutory office holder of the Employer and such other full-time employees who have accepted appointment under the terms and conditions determined by the Employer;

- (b) such full-time employees of an Associated Employer who have accepted appointment under the terms and conditions determined by the Associated Employer; and
- (c) any other employee of an Employer who is deemed or expressly approved by the Employer as an Employee for the purposes of the Participation Schedule and the Rules.

"Employer" means an "Employer" as defined under the Rules and unless the context otherwise requires includes the Employer and Associated Employer named in the Participation Agreement.

"Equitable Share" means in relation to a Member as at a particular date the amount determined by the Trustee after the obtaining the advice of the Actuary to be that Member's equitable share of the Sub-Division as at that date.

"Existing Member" means -

- (a) a Member who last became a member of the Transferring Fund before the Insertion Date; and
- (b) a person entitled to claim a benefit from the Sub-Division in respect of another person who participated in or received a benefit from the Transferring Fund before the Insertion Date or in respect of an event or circumstance which occurred or arose before that date.

"Former Fund Minimum Benefit" means, in relation to a Member who is a Previous Fund Member who was a member of Elders-ANL Pty Ltd Staff Superannuation Fund immediately prior to becoming a member of the Previous Fund, a minimum benefit calculated in respect of such member pursuant to rule 13(a)(iv) or rule 13(b)(ii) of the rules of the Previous Fund as at the 31st day of October 1992 and advised by the principal employer of the Previous Fund to the Trustee of the Transferring Fund together with interest thereon at the Declared Rate pursuant to rule 1.11.2 of the Transferring Fund Rules from and after 1 November 1992 until the Commencement Date (such amount to be advised by the Transferring Trustee to the Trustee) together with interest at the Declared Rate on and after the Commencement Date pursuant to Section 1.11.2 until the Previous Fund Member ceases Service.

"Full Member" means a Member who is classified as a Full Member in accordance with Section 1.3.2 or Section 1.3.3 or is a Member who was classified as a Full Member under the Transferring Fund Rules.

"Gainful Work" means engagement in any employment, occupation, vocation, profession, trade or business for remuneration or other reward in money or moneys worth.

"Insertion Date" means 18 June 1992.

"Insurance" includes assurance and vice versa.

"Maximum Benefit" means in relation to any New Benefit such amount as the Employer may determine and notify to the Trustee from time to time in respect of that Benefit, having

regard to any applicable requirement of a Relevant Law regarding maximum reasonable benefits and such other matters as the Employer considers appropriate.

"Member" means a person who has been admitted to membership of the Sub-Division as provided in the Participation Schedule and Rules and includes a Full Member, Previous Fund Member and a Provisional Member **PROVIDED THAT** a person shall cease to be a Member in the event of that person's death or when all Benefits to which that person could become entitled under the Participation Schedule and the Rules have been paid from the Sub-Division or have otherwise ceased or have been terminated as provided in the Participation Schedule or the Rules, whichever first occurs.

"New Benefit" means -

(a) in relation to a Change Date Member -

- (i) any benefit or part of a benefit attributable to the Member's Preserved Accumulation and, in the case of a Full Member, any benefit or part of a benefit attributable to the Member's Preserved Multiple (as defined in Section 3.2); and
- (ii) any other improvement in a benefit or any other new or further benefit the availability of which required the exercise of a power, right, discretion or authority by the Transferring Trustee or an Employer on or after the Change Date or the Trustee or an Employer on or after the Commencement Date, including without limitation any amendment of the Participation Schedule or the Rules (whether by the deed which inserted this definition or otherwise);

or

(b) in relation to any other Member, any benefit whatsoever and whensoever arising.

"Non-Member Spouse" has the meaning given to those words as defined under the Family Law Act 1975 and the regulations made thereunder.

"Normal Retirement Date" means the Member's sixty-fifth birthday.

"Periodic Employer Credits" means in relation to a Member and the Member's Preserved Account -

- (a) during and in respect of any period of Plan Membership falling between 1st January 1988 and 1st January 1989 (both dates inclusive) when the Member was classified as a Provisional Member under the Transferring Fund Rules, periodic amounts (to be determined and credited at intervals at which instalments of the Member's Actual Annual Salary fall due) equal to 1.5% of the Member's Actual Annual Salary; and
- (b) during and in respect of any period of Plan Membership falling after 1st January 1989 when the Member was classified as a Provisional Member of the Transferring Fund and/or this Sub-Division, periodic amounts (to be determined and credited at intervals at which instalments of the Member's Actual Annual

Salary fall due) equal to 3% of the Member's Actual Annual Salary; and

- (c) during and in respect of any period of Plan Membership after 1st January 1988 when the Member was classified as a Full Member, periodic amounts (to be determined and credited at intervals at which instalments of the Member's Actual Annual Salary fall due) equal to 3% of the Member's Actual Annual Salary.

"Person" and other words importing a natural person shall include a body corporate and any other person recognised at law, a partnership and any other group or association of persons but the words "natural person" shall be given their normal meaning.

"Plan Membership" means in relation to a Member the most recent uninterrupted period during which the Member was:

- (a) a member of the Transferring Fund (if applicable);
- (b) a Member of the Sub-Division;
- (c) in the Service; and
- (d) also such other period as the Employer may declare to be Plan Membership for the purposes of the whole or any particular provision of the Participation Schedule and the Rules **PROVIDED THAT**, unless the Employer determines otherwise or the law requires otherwise and except as provided in Section 3.6, any period during which a Member is temporarily absent from Service shall not be counted in determining the Member's Plan Membership.

"Policy" means a policy of Insurance (being either a policy relating to more than one Member or a policy relating to an individual Member) effected in accordance with the Participation Schedule and the Rules to provide benefits under the Sub-Division.

"Post-Insertion Date Benefit" means in any particular circumstances -

- (a) in relation to an Existing Member, any improvement in a benefit payable in such circumstances, or any new or further benefit payable in such circumstances, the introduction or availability of which required the exercise of a power by the Employer under the Transferring Fund Rules, the Participation Schedule or the Rules on or after the Insertion Date, including without limitation any amendment of the provisions governing the Transferring Fund or the Sub-Division (whether by the instrument which inserted this definition or otherwise) but not including any benefit which became payable to that person before the Insertion Date or any benefit which that person would have had a right to receive in such circumstances if the provisions of the Transferring Fund Rules in force immediately before the Insertion Date had continued to apply unaltered in respect of that person and the Employer had not exercised any relevant power on or after the Insertion Date; and
- (b) in relation to any other person, any benefit whatsoever.

"Preserved Account" means in relation to a Member the account of that name maintained in respect of the Member in accordance with Section 1.7.

"Preserved Accumulation" means in relation to a Member as at any particular date the amount standing to the credit of the Member's Preserved Account and the Member's Member Account, after all relevant credits and debits have been made to such Account.

"Previous Fund" means the Elders-ANL Pty. Ltd. Staff Superannuation Fund established by deed dated 13 August 1982.

"Previous Fund Accumulation" means in relation to a Member who is a Previous Fund Member the accumulation of contributions by and in respect of the Member to the Previous Fund (together with interest thereon) as determined as at the 31st day of October 1992 by the Employer and advised to the Trustee together with compound interest thereon at the Declared Rate pursuant to rule 1.11.2 of the Transferring Rules from and after 1 November 1992 and prior to the Commencement Date and at the Declared Rate pursuant to Section 1.11.2 on an after the Commencement Date.

"Previous Fund Member" means a Member who transferred to the Transferring Fund as at 1 November 1992 and who immediately before that date was both a member of the Previous Fund and an employee of an employer who participated in the Previous Fund and who as a Member has transferred to the Fund on the Commencement Date.

"Provisional Member" means a Member who was a Provisional Member under the Transferring Fund Rules or any other Member who is classified as a Provisional Member in accordance with Section 1.3.2 and who has not become a Full Member as provided in Section 1.3.3.

"Related Person" means in relation to the Employer:

- (a) (assuming the Employer to be a corporation under and for the purposes of the Corporations Act 2001) a Person which for the time being is deemed to be related to the Employer by virtue of the Corporations Act 2001; or
- (b) a Person in which the Employer has an interest, whether by shareholding or otherwise, similar, in the opinion of the Employer, to that which would, if the Employer and the said Person were both corporations to whom the Corporations Act 2001 applied, would, in the opinion of the Employer, be sufficient to deem them related corporations by virtue of the Corporations Act 2001.

"Review Date" means the 1st day of July in each year or such other date as the Trustee may determine in any year and, in the case of a Member who is admitted as a Member at a date other than the Review Date, also means in respect of that Member the earlier of that Member's date of admission to membership of the Transferring Fund or the Sub-Division.

"Review Period" means a period commencing on a Review Date and ceasing immediately prior to the next following Review Date.

"Salary" shall be determined as at each Review Date and a Member's Salary as at any particular date is the remuneration at which the Member is or was employed by an Employer as at the Review Date coincident with or immediately preceding that particular date **PROVIDED THAT**, except to the extent approved by the Employer, a Member's Salary shall not include any bonus, payment for overtime, allowance for cost of living, travelling expense or other remuneration allowance or emolument determined by the Employer to be of

an extraordinary nature **PROVIDED FURTHER THAT** in any particular case Salary shall be such other amount as determined in such other manner and for such period as may be determined by the Employer and approved by the Member for the purposes of the whole or any particular provisions of the Rules.

"Service" means employment with an Employer and, for the purpose of determining the length of a Member's Service, Service means the most recent uninterrupted period during which the Member has been so employed including in the case of a Member any period which counted as "Service" under the Transferring Fund Rules **PROVIDED THAT**, except where the Trustee and the Employer expressly agree otherwise, a Member's Service shall not cease to be continuous by reason of a transfer from the employ of one Employer to the employ of another Employer.

"Superannuation Interest" has the meaning given to those words as defined under the Family Law Act 1975 and the regulations made thereunder.

"Total and Permanent Disablement" in relation to a Member means disablement which constitutes total and permanent disablement (whether thus expressed or otherwise) under any Policy effected by the Trustee or disablement which is sufficient to render the Member totally and permanently disabled (whether thus expressed or otherwise) for the purposes of any policy of insurance effected by the Trustee but if the Trustee have not effected insurance against the contingency of disablement in respect of the Members of the Sub-Division generally, Total and Permanent Disablement means having been absent from Service through injury or illness for six consecutive months (or such shorter period as in the circumstances the Trustee considers appropriate) and, in the opinion of the Trustee after consideration of medical evidence that is satisfactory to the Trustee, having become incapacitated to such an extent as to render the Member unlikely ever to engage in or work for reward in any occupation or work for which he is reasonably qualified by education training or experience **PROVIDED THAT** a Member, who last became a member of the Transferring Fund prior to the date of execution of the instrument which inserted this definition of Total and Permanent Disablement in the Transferring Fund Rules (the "said date"), shall be considered to suffer Total and Permanent Disablement if that Member is incapacitated to such an extent as would have constituted "Total and Permanent Disablement" under the definition of "Total and Permanent Disablement" in its form immediately prior to the said date.

"Transfer Date" means the 1st day of November 1992.

"Transferable Benefit" means "transferable benefits" as that term is defined under the Superannuation Industry (Supervision) Act 1993 and the regulations made thereunder.

"Transferred Alternative Plan Contributor" means a Member who is a Full Member who -

- (a) under the terms and conditions of the Member's employment contributed to the Alternative Plan before becoming a Full Member in the Transferring Fund;
- (b) had not at the date of applying to become a Full Member in the Transferring Fund reached the minimum retirement age for the purposes of the Superannuation Act 1976 (the "Superannuation Act"); and
- (c) is not an invalidity pensioner for the purposes of the Superannuation (Eligible Employees) Regulations made under the Superannuation Act,

and in respect of whom there was transferred to the Transferring Fund all superannuation funds held on his or her behalf in the Alternative Plan.

1.3 Membership of Sub-Division

1.3.1 Classification of Members. Unless otherwise determined by the Employer the Members of the Sub-Division shall be divided into categories, namely Provisional Members, Full Members and Previous Fund Members and the criteria for and conditions of entry and exit from the categories of Full Member and Provisional Member shall be as provided for in Section 1.3.2 and Section 1.3.3.

1.3.2 Admission to Membership

- (a) A Member who was a "Full Member" or a "Provisional Member" of the Transferring Fund immediately before the Commencement Date will, subject to this Participation Schedule and the Rules, be a Full Member or a Provisional Member respectively, of the Sub-Division on the Commencement Date.
- (b) Without limiting paragraph (a) of this Section, an Employee may apply to the Employer to become a Provisional Member and an applicant whose application is approved by the Trustee shall become a Provisional Member with effect on the date upon which he or she last commenced Service **PROVIDED THAT**, with the consent of the Employer and subject to such conditions as the Employer or the Trustee may impose, the Trustee may at any time deem an Employee to have been admitted as a Provisional Member as at the said date without the need for a formal application for membership.
- (c) Without limiting paragraphs (a) and (b) the Employer may determine either generally or in any particular case that any person who is an Employee of an Employer in respect of whom the Employer must provide a minimum benefit in accordance with the Superannuation Guarantee (Administration) Act 1992 may be deemed to become a Provisional Member on such date and for such period and on such conditions as are determined by the Employer and notified to the Trustee for the purpose of the whole or any particular provision of the Participation Schedule **PROVIDED THAT** where a person who is an Employee of an Employer dies after having become eligible to apply for membership without having applied for membership, the Trustee may with the approval of the Employer retrospectively deem that employee to be an Employee and a Provisional Member notwithstanding that such decision is taken after the date of death.

1.3.3 Becoming a Full Member. Subject to Section 1.3.4, an Employee or a Provisional Member who is approved by the Employer as being eligible to become a Full Member may apply to the Employer to become a Full Member and shall become a Full Member from a date determined by the Trustee, not being earlier than the later of the date of commencement of that Employee's most recent or only period of Service and the date as at which he or she became eligible to apply to become a Full Member. A Provisional Member shall cease to be a Provisional Member immediately upon becoming a Full Member.

1.3.4 Application Procedures. Without limiting Section 1.5.2, any application by an Employee or a Provisional Member for the purposes of Section 1.3.2 or Section 1.3.3 shall be made in

writing in a form approved by the Trustee and shall be accompanied by such information or evidence (in relation to age, health or otherwise) as may be required by the Trustee or the Employer.

1.3.5 Special conditions and restrictions. The Trustee may with the approval of the Employer -

- (a) admit an Employee as a Provisional Member or a Full Member subject to limitations and restrictions in relation to benefits; and
- (b) remove or reduce the effect of any such limitations and restrictions,

and the rights and interests of such a Member (and the rights and interests of any person otherwise entitled to claim in respect of the Member or on the occurrence of any event or circumstance affecting the Member) shall be subject to such limitations and restrictions as they apply from time to time.

1.4 Contributions to Sub-Division

1.4.1 Member contributions

- (a) Subject to the Participation Schedule and the Rules, a Provisional Member shall contribute to the Sub-Division in accordance with Part 2.
- (b) Subject to the Participation Schedule and the Rules, a Full Member shall contribute to the Sub-Division in accordance with Part 3.
- (c) Subject to the Participation Schedule and the Rules, a Previous Fund Member shall contribute to the Sub-Division in accordance with Part 4.

1.4.2 Contributions by Employers

- (a) Subject to the Participation Schedule and the Rules, each Employer shall contribute to the Sub-Division in respect of Provisional Members in accordance with Part 2.
- (b) Notwithstanding Clause 5.3, in respect of each Review Period, and at such other times as determined by the Trustee, the Trustee, after obtaining the advice of the Actuary, will advise the Employer of the amount which has been calculated as being required in respect of the funding of the benefits specified in the Participation Schedule and Rules and, subject to the Participation Agreement and the Rules and to any contrary agreement between the Employer and the Trustee, the Employer will contribute to the Fund in respect of this Sub-Division in that Review Period (in such proportions as between the Employers as the Employer shall determine and in instalments in arrears related to the Employers' normal accounting periods) the remainder of that amount after allowance has been made for -
 - (i) contributions payable to the Fund by Full Members and Previous Fund Members; and
 - (ii) contributions payable to the Fund by the Employers pursuant to Part 2 in respect of Provisional Members.

1.5 **Benefits of Sub-Division**

1.5.1 Amount and circumstances of payment. Subject to the Participation Schedule and the Rules, the amount and circumstances of payment of benefits for and in respect of a Member under the Sub-Division shall be determined in accordance with whichever of the following Parts applies to the Member.

1.5.1A *[Deleted]*

1.5.2 *[Deleted]*

1.5.3 Relocation of Member. If a Member is relocated to another position with the Employer and as a result incurs a reduction in remuneration, the contributions and benefits payable in terms of the Sub-Division in respect of the Member shall be adjusted in such manner as may be agreed between the Trustee and the Employer after considering relevant advice **PROVIDED THAT** a Full Member or Previous Fund Member may within one month of such reduction elect by notice in writing to the Employer that for the purposes of calculating contributions and benefits under the Sub-Division his or her Salary shall be the greater of—

- (a) the Member's Salary immediately before reduction; and
- (b) the Member's actual Salary from time to time.

1.5.4 Special adjustments of New Benefits. Subject to the Relevant Law, if in the opinion of the Employer:

- (a) a Member is employed in other than a full-time capacity, is absent from active employment (whether with or without pay or the approval of the Employer) or remains in Service but does not satisfy the eligibility criteria necessary for admission to membership;
- (b) the Employer becomes bound by a law, governmental action, an industrial award, a decision of a court or an industrial tribunal, or an agreement to bear all or part of the costs of another superannuation plan or like scheme providing benefits (inter alia) in respect of a Member in the same or similar circumstances as benefits are provided under the Participation Schedule and the Rules; or
- (c) any tax or other governmental impost is, or could reasonably be expected to be, introduced or increased in connection with the Sub-Division or the payment or transfer of any money or property to or from the Sub-Division,

the amount and basis of determination of any New Benefit, and the liability of the Employer under the Participation Schedule and the Rules in respect of any New Benefit, shall be adjusted to take account of any such matter or circumstance in such manner and to such extent as the Employer notifies to the Trustee in writing, and any such notice shall be binding on the Trustee, the Members concerned and all other interested persons. The powers exercisable by the Employer under this Section shall be in addition to and shall not limit any power exercisable by the Employer under any other provision of the Participation Schedule or the Rules **PROVIDED THAT**, notwithstanding anything aforesaid, no adjustment hereunder shall cause the amount or value of any benefit payable to or in respect of a Member upon the Member ceasing Service to fall below the sum of the Member's Preserved

Accumulation and (where applicable) Accumulated Contributions and Previous Fund Accumulation.

1.5.5 Taxation. Without limiting Section 1.5.4, the Trustee may make such adjustments, deductions and provisions as the Trustee consider appropriate in taking account of any tax or other governmental impost which, in the opinion of the Trustee, is or may become payable in connection with the Sub-Division or the payment or transfer of any money or property to or from the Sub-Division, and the Trustee may pay any such tax or impost to the relevant authority **PROVIDED THAT** in the case of a Member who is a Change Date Member or any beneficiary as at the Change Date, an action shall only be taken under this Section 1.5.5 if that action could validly be or have been taken (by amendment of the Transferring Fund Rules or otherwise howsoever) under the provisions of the Transferring Fund Rules in force immediately before the Change Date.

1.5.6 Maximum Benefits. Notwithstanding anything expressed or implied to the contrary in any other provision of the Participation Schedule or the Rules, the amount of any New Benefit shall not exceed the applicable Maximum Benefit either -

- (a) in its own right; or
- (b) when aggregated with any other amount which (in the opinion of the Employer) is or may become payable in respect of a Member from the Sub-Division by reason of what the Employer considers to be the same event, occurrence or circumstance as gives rise to an entitlement to that New Benefit,

and any New Benefit and, where applicable, the contributions payable by and in respect of a Member shall be adjusted in such manner and to such extent as the Employer advises to the Trustee in writing in order to ensure compliance with this Section. Where in respect of a Member the Trustee considers it appropriate to reduce contributions in order to avoid the provision of excessive benefits, the Trustee shall firstly reduce the Employer contributions in respect of the Member and, to the extent that such a reduction is not sufficient to contain any relevant benefit, the Trustee shall secondly reduce the contributions payable by the Member.

1.5.7 Special insurance provisions: New Benefits

- (a) If the Trustee effects or seeks to effect Insurance with an insurer in respect of a New Benefit and -
 - (i) that insurer refuses to provide or to increase Insurance in respect of that New Benefit on its standard terms; or
 - (ii) in respect of that New Benefit, that insurer for any reason whatever fails to provide, increase or maintain or reduces, terminates or withholds Insurance or does not admit or refuses to consider or defers a claim in whole or in part,

then, unless otherwise agreed between the Trustee and the Employer, that New Benefit shall be reduced to the extent that, in respect of that New Benefit, Insurance has not been effected on standard terms or has otherwise not been obtained, increased or maintained or has been reduced, terminated or withheld or such a claim is deferred or not admitted, and the Trustee shall adjust that New Benefit in such manner as the Trustee, after obtaining the advice of the Actuary, considers

appropriate in effecting such a reduction.

- (b) If any event provided for in paragraph (a) hereof occurs in relation to Insurance sought or effected, the Trustee is not bound to seek alternative Insurance with the same or another insurer or, if it does decide to seek alternative Insurance, the Trustee may limit that search to such insurer or insurers as they see fit.
- (c) In any case, the Trustee may adjust the amount, time for and basis of payment of all or part of a New Benefit in respect of which Insurance has been effected in such manner as the Trustee considers appropriate to take account of the terms and conditions upon which the proceeds of such Insurance are payable by the relevant insurer and the amount thereof.
- (d) If the Trustee does not seek to effect insurance in respect of the whole of a New Benefit but the Employer believes that an event provided for in paragraph (a) of this Section would or would likely have occurred if the Trustee had done so, then (unless otherwise agreed between the Trustee and the Employer) paragraphs (a), (b) and (c) of this Section shall apply as if -
 - (i) the Trustee had in fact sought or effected insurance in respect of that New Benefit of such amount and on such conditions as shall be determined by the Employer with the approval of the Trustee; and
 - (ii) such of the events provided for in paragraph (a) of this Section as the Employer with the approval of the Trustee shall determine had in fact occurred and for such reasons, in such circumstances and with such effect as the Employer with the approval of the Trustee shall determine.
- (e) Any adjusted benefits provided pursuant to this Section shall be in lieu of and in full satisfaction of the benefits which would or might have been or become payable but for the operation of this Section.

1.5.8 Benefit to Satisfy Superannuation Guarantee Charge. The Trustee shall provide from the Sub-Division in respect of a Member and any period while the Member is in the employ of the Employer such benefit payable on such terms and conditions as the Employer shall determine and advise to the Trustee as being sufficient to meet the requirements of any legislation prescribing a minimum level of Employer support for Employees **PROVIDED THAT -**

- (a) no such determination by the Employer shall reduce the total value of the rights of Members and their Dependents (if any) secured by the Sub-Division pursuant to this Section 1.5.8 immediately before the time of making that determination; and
- (b) before giving effect to such a determination or in the course of doing so the Trustee may require an undertaking from an Employer that it shall contribute to the Sub-Division such additional amounts or rates of contribution and at such times as the Trustee shall determine after obtaining the advice of the Actuary; and
- (c) to the extent that such a determination by the Employer is not permitted by the Relevant Law, it shall only take effect with the consent of the Trustee.

1.5.9 *[Deleted]*

1.5.10 *[Deleted]*

1.6 Payment of benefits on death

1.6.1 Normal basis of application. Subject to the Relevant Law, benefits payable on the death of a Member while in Service shall be paid or applied by the Trustee to or for the benefit of such one or more of:-

- (a) the Member's Dependants; and
- (b) subject to production of probate or letters of administration, the Member's legal personal representatives,

to the exclusion of the other or others and in such manner and proportions as the Trustee determines **PROVIDED THAT** the Trustee shall use its best endeavours to pay in an expedient manner such benefit to the Dependant or Dependants as determined by the Trustee and without limitation may take into account for the timing of any payment the hardship circumstances of any Dependant resulting from the Member's death **PROVIDED FURTHER THAT** where the Trustee, after reasonable inquiry, has not found any Dependant or legal personal representative of the deceased Member then the Trustee may pay such amount to or for the benefit of any one or more of the Member's relatives as the Trustee shall determine.

1.7 Preserved Accounts

1.7.1 Establishment and maintenance of Preserved Accounts. Subject to the Participation Schedule and the Rules, the Trustee shall cause to be established in respect of each Member an account to be called the Member's "Preserved Account", to which there shall be credited -

- (a) the Periodic Employer Credits in respect of the Member, being -
 - (i) in the case of a Provisional Member, amounts equal to the contributions payable by the Employer in accordance with Section 2.3; and
 - (ii) in the case of a Full Member, amounts deducted from the aggregate contributions paid by the Employer in accordance with clause 5 of the Participation Agreement, Section 1.4.2(b) and the Rules;
- (b) any amounts which the Trustee may determine to credit to such Account as a consequence of a transfer into the Sub-Division as provided for in Section 1.8.1; and
- (c) any amounts as determined by the Employer and advised to the Trustee as sufficient to meet the requirements of any legislation that prescribes the minimum level of employer support for employees in accordance with Section 1.5.8; and
- (d) any other amounts which the Participation Schedule or the Rules may require or permit to be credited thereto;
- (e) the balance of the Member's "Preserved Account" calculated as at the day

immediately before the Commencement Date and transferred from the Transferring Fund; and

- (f) if the Member is also a Non-Member Spouse, any amount which the Trustee considers represents the Transferable Benefit (or such other amount as the Trustee may determine) in respect of the Non-Member Spouse,

and to which there shall be debited -

- (i) in the case of a Provisional Member, the cost of Insurance secured against the death or Total and Permanent Disablement of the Member;
- (ii) any amount to be debited to such Account in accordance with Section 1.7.2;
- (iii) any amount which the Trustee determines to debit to such Account as a consequence of a transfer out of the Sub-Division in accordance with the Rules and Section 1.8.2;
- (iv) any benefit payable from such Account pursuant to the Rules;
- (v) any other amounts which the Participation Schedule or the Rules may require to be debited thereto or which the Trustee may consider it appropriate and equitable to debit thereto; and
- (vi) any Transferable Benefit which the Trustee determines to debit,

and interest shall be allocated to such Account at the Declared Rate as provided in Section 1.11.2.

1.7.2 Particular deductions and debits

- (a) The Trustee shall -
 - (i) cause to be deducted from any amount which would otherwise be credited to a Member's Preserved Account or the Member's Member Account before it is so credited; or
 - (ii) cause to be debited from a Member's Preserved Account or the Member's Member Account,

such amounts and on such basis as the Employer and the Trustee may determine to be appropriate in taking account of the expenses of and incidental to the management and administration of the Sub-Division and any tax or other governmental impost in connection with the Sub-Division, assuming continuing and separately identifiable Employer contributions in respect of the Member equal to the Member's Periodic Employer Credits. Without limiting the generality of the foregoing, the Employer and the Trustee may determine that deductions or debits shall be made pursuant to this Section 1.7.2 in respect of particular expenses or imposts on the basis of a common periodical amount or common percentage for each Member or any particular group or class of Members.

- (b) In the case of Provisional Members, the Trustee may with the approval of the

Employer make deductions or debits in respect of Insurance on the basis of a common periodical amount or common percentage for each Provisional Member or any particular group or class of Provisional Members.

- (c) Without limiting the generality of the foregoing, any deduction or debit for the purposes of this Section 1.7.2 may be made on an estimated basis with such subsequent adjustments as may be agreed between the Employer and the Trustee to take account of any difference between estimated and actual amounts.

1.7A **Member Account**

Establishment of Member Account

Subject to the Participation Schedule and the Rules, the Trustee shall cause to be established in respect of each Provisional Member an account called the Member's "Member Account", to which there shall be credited -

- (a) any contributions made by the Member pursuant to Section 2.2;
- (b) any other amount which the Trustee and the Employer may consider it appropriate and equitable to credit thereto;
- (c) any other amount which the Participation Schedule or the Rules may require or permit to be credited thereto;
- (d) the balance of the Member's "Member Account" calculated as at the day immediately before the Commencement Date and transferred from the Transferring Fund; and
- (e) if the Member is also a Non-Member Spouse, any amount which the Trustee considers represents the Transferable Benefit (or such other amount as the Trustee may determine) in respect of the Non-Member Spouse,

and there may be debited to such Account -

- (i) the cost of Insurance secured against the death or Total and Permanent Disablement of the Member;
- (ii) any amount to be debited to such an account in accordance with Section 1.7.2;
- (iii) any amount which the Trustee determines to debit to such account as a consequence of a transfer out of the Sub-Division in accordance with the Rules and Section 1.8.2;
- (iv) any benefit payable from such Account pursuant to the Rules;
- (v) any other amount which the Participation Schedule or the Rules may require or permit to be debited thereto or which the Trustee may consider it appropriate and equitable to debit thereto;
- (vi) any charges that the Trustee may reasonably require or are permitted to debit

thereto; and

(vii) any Transferable Benefit which the Trustee determines to debit,

and interest shall be allocated to such Account at the Declared Rate as provided in Section 1.11.2.

1.8 **Portability of benefits**

1.8.1 Transfers from other funds. Subject to the Relevant Law if any person who is a member or a former member of another superannuation fund or benefit arrangement applies to become or becomes a Member, the Trustee may after receiving and considering any relevant advice accept that person as a Member with rights to extra benefits as determined by the Actuary who shall have regard to the contributions (money or securities) brought into the Sub-Division. Without limiting the generality of the foregoing, for the purposes of this Section the Trustee may determine that any period of time or any amount which is a determinant of a benefit payable in respect of such a Member or of such a Member's entitlement to a benefit shall include an additional period or an additional amount, as the case may be.

1.8.2 Transfers to other funds

(a) *[Deleted]*

(b) Subject to the Rules, in the case of a Member to whom an immediate lump sum benefit is payable from the Sub-Division, the Trustee in lieu of providing that benefit from the Sub-Division may with the consent of the Member pay or transfer to or towards another fund or benefit arrangement in which the Member participates or is eligible to participate money or property representing the amount or value of that benefit, as determined by the Trustee.

(c) Subject to the Rules, in the case of a Full Member who has ceased Service in the circumstances provided for in Section 3.8(a)(ii) and who has elected in accordance with that Section to receive a deferred lump sum benefit from the Sub-Division, the Trustee in lieu of providing that deferred benefit from the Sub-Division may pay or transfer to or towards a superannuation or like scheme maintained in whole or in part by the Member's new employer money or property representing the amount or value of that deferred benefit, as determined by the Trustee.

(d) *[Deleted]*

(e) Subject to the Rules and this Section 1.8.2, in the case of a Member employed by an Associated Employer which has terminated (or is deemed to have terminated) all of its contributions to the Sub-Division as provided in Clause 5.3 of the Participation Schedule, the Trustee, with the approval of the Employer and the Member concerned and subject to any conditions imposed by the Employer with the approval of the Trustee, may pay or transfer to or towards another superannuation or like scheme maintained in whole or in part by the Associated Employer money or property representing the value of the benefits provided for under the Participation Schedule and the Rules in respect of the Member, after any adjustment in accordance with Clause 5.3 of the Participation Schedule and the Rules.

1.8A **[Deleted]**

1.9 **Dismissal for defalcation or misconduct**

- (a) Subject to Section 1.9(b) and the Relevant Law, if in the opinion of the Employer (whose decision shall be final) a Member is party or privy to any defalcation in respect of the funds of the Employer or of the Sub-Division and is dismissed for this reason or is dismissed because of misconduct or resigns to avoid dismissal for either of those reasons or if in the opinion of the Employer dismissal of a Member as aforesaid was prevented by his or her resignation or cessation of employment for any other reason (including but not limited to the death of the Member) then the benefit to which the Member or the Dependents of the Member or the legal personal representatives of the Member would otherwise have been entitled under the Sub-Division shall be applied so far as it shall extend to make good any defalcation and to meet any costs or losses (including the costs of any prosecution or civil proceedings) incurred by the Employer or the Trustee as a result of or incidental to or arising howsoever out of the defalcation or misconduct and the amount so applied shall be paid by the Trustee to the Employer or retained in the Sub-Division for the general purposes thereof (as the case may require) and the balance of the said benefit which is not so applied shall be dealt with in accordance with the other provisions of the Participation Schedule and the Rules.
- (b) Notwithstanding anything expressed or implied to the contrary in Section 1.9(a), but subject to the Relevant Law -
 - (i) the amount payable to or in respect of the Member shall not by virtue of Section 1.9(a) be reduced below an amount equal to the sum of the Member's Preserved Accumulation and, in the case of a Full Member or Previous Fund Member, the Member's Accumulated Contributions and Previous Fund Accumulation (where applicable);
 - (ii) no amount shall be liable to be applied as provided in Section 1.9(a) unless the Employer certifies to the Trustee that as at the date of certification it is satisfied that amount has been the subject of a defalcation cost or loss as aforesaid and has not been recovered by other means; and
 - (iii) the decision of the Employer as to the amount which is the subject of a defalcation cost or loss as provided for in Section 1.9(a) shall be final and binding on all persons.

1.10 **[Deleted]**

1.11 **Miscellaneous administrative matters**

1.11.1 **[Deleted]**

1.11.2 Allocation of interest. For the purposes of determining a Member's Preserved Accumulation, Member's Accumulated Contributions, Previous Fund Accumulation or Former Fund Minimum Benefit (where applicable), interest shall be allocated at the Declared Rate as at -

- (a) each Review Date;

- (b) the date as at which a benefit attributable to the Member's Preserved Account, Member Account, Accumulated Contributions, Previous Fund Accumulation or Former Fund Minimum Benefit, as the case may be, becomes payable under the Rules; and
- (c) such other dates (if any) as the Trustee may determine either generally or in any particular case.

1.11.3 The Trustee may determine and adopt such procedures as the Trustee, with the approval of the Employer, consider appropriate and consistent with the provisions and general intent of the Participation Schedule and the Rules regarding -

- (a) the calculation and rounding off of contributions, benefits and interest; and
- (b) the determination of periods of time, including without limitation the determination of fractions of a year for the purposes of calculating a benefit.

Part 2 – Provisional Members

2.1 Application of Part 2

This Part 2 shall apply to and in respect of each Provisional Member, subject always to the Participation Schedule and Part 1, and in this Part 2 "Member" shall mean a Provisional Member only.

2.2 Member Contributions

A Provisional Member may make contributions to the Sub-Division of such rate or amounts approved by the Trustee and the Employer and at such times as the Member may from time to time determine with the Trustee. The Member may with the consent of the Trustee and the Employer increase or reduce the amount of contributions and vary the date of payment.

2.3 Contributions by Employer

Subject to the Participation Schedule and the Rules, the Employer shall contribute to the Sub-Division in respect of each Provisional Member employed thereby amounts equal to the Member's Periodic Employer Credits.

2.4 Retirement benefit

If a Provisional Member ceases Service and also ceases all other Gainful Work on or after attaining the age of 55 years in circumstances other than those provided for in Section 2.5, the Trustee shall pay to the Member a lump sum benefit of an amount equal to the Member's Preserved Accumulation as at the date of cessation of Service.

2.5 Death or Total and Permanent Disablement while in Service

If a Provisional Member -

- (a) dies while in Service; or
- (b) ceases Service because of Total and Permanent Disablement,

there shall be payable to or in respect of the Member a lump sum benefit of an amount equal to the sum of -

- (i) the Member's Preserved Accumulation as at the date of cessation of Service; and
- (ii) the proceeds of any Insurance effected by the Trustee in respect of the Member and payable in the event of such contingency.

2.6 **Cessation of Service in other circumstances**

Subject to Section 1.8.2(c), if a Provisional Member ceases Service other than in the circumstances provided for in Section 2.4 or Section 2.5 there shall be payable to or in respect of the Member on the Deferral Date a lump sum benefit of an amount equal to the Member's Preserved Accumulation as at the Deferral Date.

Part 3 – Full Members

3.1 Application of Part 3

This Part 3 shall apply to and in respect of each Full Member, subject always to the Participation Schedule and Part 1, and in this Part 3 "Member" shall mean a Full Member only.

3.2 Definitions

In this Part 3, unless the contrary intention appears or the context requires otherwise -

"Basic Contributions" means contributions payable pursuant to the provisions of Section 3.3.1 and in the case of a Member who was a member of the Transferring Fund immediately before the Commencement Date, any contributions made in accordance with rule 3.3.1 of the Transferring Fund Rules in the period immediately prior to the Commencement Date.

"Basic Multiple" means in relation to a Full Member as at any particular date the multiple which is the sum of -

- (a) in the case of a Transferred Alternative Plan Contributor, the product of 0.1666 and the number of years (and any fraction of a year) of Contributory Alternative Plan Membership; and
- (b) in any case, the aggregate of
 - (i) the product of 0.08 and the number of years (and any fraction of a year) of Full Plan Membership (not including any Contributory Alternative Plan Membership) during which the Member's Selected Rate is 2%;
 - (ii) the product of 0.15 and the number of years (and any fraction of a year) of Full Plan Membership (not including any Contributory Alternative Plan Membership) during which the Member's Selected Rate is 5%; and
 - (iii) the product of 0.17 and the number of years (and any fraction of a year) of Full Plan Membership (not including any Contributory Alternative Plan Membership) during which the Member's Selected Rate is 7%.

"Contributory Alternative Plan Membership" means in relation to a Transferred Alternative Plan Contributor the Member's most recent uninterrupted period of contributory membership of the Alternative Plan prior to the date as at which the Member last became a Full Member of the Sub-Division or, if earlier the date the Member became a Full Member of the Transferring Fund.

"Final Average Salary" means in relation to a Member the average of the Member's annual rate of Salary on the Review Dates during the period of 3 years immediately preceding the earlier of the date the Member ceased to be employed by the Employer or the Normal Retirement Date or such later date that the Member ceases Service (as appropriate)

PROVIDED THAT, if as at the earlier of such dates the Member has been a Member for less than 3 years (including in the case of a Member the period as a member of the Transferring Fund immediately before the Commencement Date), then (unless otherwise determined by the Employer) the average of the Member's annual rate of Salary on the Review Dates during the period of the Member's actual membership of the Transferring Fund and Sub-Division shall be taken **PROVIDED FURTHER THAT** in the case of a Member who ceases to be employed by the Employer after his or her Normal Retirement Date the Final Average Salary shall not be less than would have been applicable in respect of a Member if he or she had ceased Service at his or her Normal Retirement Date.

"Full Plan Membership" means in relation to a Member the period of the Member's Plan Membership during which the Member was classified as a Full Member **PROVIDED THAT** -

- (a) in the case of a Member who last became a member of the Transferring Fund before 1st January 1988 and who (as provided in rule 1.3.3(a) of the Transferring Fund Rules) was deemed to be a Full Member on that date, the Member's Full Plan Membership shall include the period between the date the Member last became a member of the Transferring Fund and 1st January 1988 which counted as the Member's membership of the Transferring Fund under the governing rules of the Transferring Fund in force prior to 1st January 1988; and
- (b) in the case of a Transferred Alternative Plan Contributor, the Member's Full Plan Membership shall include the Member's period of Contributory Alternative Plan Membership.

"Preserved Multiple" means in relation to a Full Member as at any particular date the multiple which is the sum of -

- (a) 0.03 and the fraction of a year (if any) in the period of Plan Membership between 1st January 1988 and 30th June 1988 (both dates inclusive);
- (b) 0.01 and the number of years (and any fraction of a year) of Plan Membership after 1st July 1988 during which the Member's Selected Rate is 5%; and
- (c) 0.03 and the number of years (and any fraction of a year) of Plan Membership after 1st July 1991 during which the Member's Selected Rate is 7%.

"Retrenchment" means a reduction of staff declared by the Employer to be retrenchment for the purposes of the Participation Schedule and "Retrenched" shall have a corresponding meaning.

"Selected Rate" means

- (a) the rate, for the time being, of Basic Contributions at which the Full Member contributes; or
- (b) in respect of a Full Member who, pursuant to the provisions of the Participation Schedule and/or the Rules, was deemed to contribute to the Transferring Fund and is deemed to contribute to the Sub-Division for the time being, the rate of Basic Contributions last selected (or deemed to have been selected) by that Member.

3.3 **Member contributions**

3.3.1 **Basic amount to be contributed.** Subject to the Participation Schedule and the Rules, each Full Member shall (except while entitled to the payment of a benefit in terms of Section 3.6) in respect of each Review Period contribute a basic amount to the Sub-Division, according to the Member's normal pay period, at whichever of the following rates the Member last selected, which selection may, unless the Employer with the approval of the Trustee otherwise determines, be made at any time within a Review Period:

- (a) 5% of the Member's annual rate of Salary as at the commencement of that Review Period; or
- (b) 7% of the Member's annual rate of Salary as at the commencement of that Review Period,

PROVIDED THAT in respect of a person who becomes a Full Member during a Review Period the annual rate of Salary to which the rate of Basic Contribution shall apply shall be that as at the commencement of that Review Period if then an Employee or if not then an Employee the Salary applicable on becoming an Employee.

3.3.2 **Period of payment of Basic Contributions.** Basic Contributions by a Full Member shall commence on the date on which the Member becomes a Full Member and shall cease on the Normal Retirement Date or on cessation of Service, whichever is the earlier **PROVIDED THAT** if the Relevant Law permits a Member to contribute to the Sub-Division after attaining his or her Normal Retirement Date then such a Member may continue to contribute Basic Contributions until his or her subsequent cessation of Service.

3.3.3 **Adjustment in certain circumstances.** Subject to the Relevant Law, if a Full Member is absent from Service with or without remuneration from the Employer, the Member shall pay the Member's Basic Contributions, at the Selected Rate applicable at the commencement of the absence from Service, to the Trustee for the period of the Member's absence unless, the Employer and the Trustee in their discretion shall otherwise determine, and it shall be at the discretion of the Employer with the approval of the Trustee as to whether or not the Member shall also pay the appropriate Employer's contributions payable for that period in respect of benefits provided for in respect of the Member. In the event of the cessation of all or part of the contributions by and in respect of a Full Member during any period of absence, the benefits payable under the Participation Schedule and Rules in respect of the Member shall be adjusted in such manner as the Trustee thinks fit after considering appropriate advice.

3.3.4 **Additional Contributions.** In addition to any contributions which the Member is required to pay to the Sub-Division under Section 3.3.1 a Full Member may, with the approval of the Trustee and the Employer, contribute further amounts on such basis and subject to such conditions (if any) as may be agreed between the Member, the Employer and the Trustee.

3.3.5 **Period of payment of Additional Contributions.** Any additional contributions permitted pursuant to Section 3.3.4 shall commence on such date as the Employer with the approval of the Trustee determines either generally or in any particular case and shall cease on the earliest of:

- (a) Normal Retirement Date;

- (b) cessation of Service; or
- (c) such other date as the Employer with the approval of the Trustee determines either generally or in any particular case,

PROVIDED THAT if the Relevant Law permits a Member to contribute to the Sub-Division after his or her Normal Retirement Date then such a Member may contribute additional contributions until his or her subsequent cessation of Service.

3.3.6 Method of payment of all contributions

- (a) Unless the Employer otherwise determines or the law does not so allow, all contributions payable by a Full Member shall be deducted from each payment of or on account of the Member's remuneration and, subject to the Relevant Law, shall be paid to the Sub-Division by the Employer in the manner and at the times agreed between the Trustee and the Employer or, in the event of failure to agree, as reasonably determined by the Trustee.
- (b) If the Employer does not wish to make deductions in respect of a Full Member's contributions or if the law does not allow the deduction of contributions, the Member shall pay contributions to the Sub-Division as and when the Member receives each payment of or on account of the Member's remuneration in such manner as the Trustee may determine with the approval of the Employer.

3.4 Retirement Benefit

If a Full Member ceases Service -

- (a) on the Normal Retirement Date; or
- (b) not more than 10 years before the Normal Retirement Date,

and no benefit is payable under Section 3.5, there shall be payable to or in respect of the Member -

- (i) a lump sum benefit of an amount equal to the product of the Member's Basic Multiple and Final Average Salary; and
- (ii) either -
 - (A) if the Member has also retired from all other Gainful Work, a lump sum benefit payable on cessation of Service of an amount equal to the product of the Member's Preserved Multiple and Final Average Salary; or
 - (B) in any other case, subject to Section 1.8.2(c), a lump sum benefit payable on the Deferral Date of an amount equal to the benefit calculated under (A) above increased with interest at the Declared Rate in respect of the period between the date of cessation of Service and the Deferral Date.

3.4A **Late Retirement Benefit**

If a Full Member ceases Service after his or her Normal Retirement Date, there shall be payable to or in respect of that Member -

- (a) in the case of a Full Member who continues in the employ of an Employer after his or her Normal Retirement Date and continues to make Basic Contributions to the Sub-Division up until the date he or she ceases Service, the Member shall be entitled to a lump sum benefit of an amount equal to the sum of -
 - (i) the product of the Member's Basic Multiple and Final Average Salary; and
 - (ii) an amount calculated in accordance with Section 3.4(ii) in respect of the Member;

or

- (b) in the case of a Full Member who continues in the employ of an Employer after his or her Normal Retirement Date and ceases to make Basic Contributions on and from his or her Normal Retirement Date the Member shall be entitled to a lump sum benefit calculated in accordance with Section 3.4 as if the Member had ceased Service at his or her Normal Retirement Date together with interest thereon at the Declared Rate in respect of the period from the Member's Normal Retirement Date to the date he or she ceases Service **PROVIDED THAT** such a Member shall be entitled to an additional benefit sufficient to satisfy the requirements of Section 1.5.8 in respect of the Member's period of employment with an Employer on and after his or her Normal Retirement Date until the date the Member ceases Service.

3.5 **Death or Total and Permanent Disablement while in Service**

3.5.1 **Normal benefit.** If a Full Member -

- (a) dies while in Service before the Normal Retirement Date; or
- (b) ceases Service by reason of Total and Permanent Disablement suffered while in Service,

and Section 3.5.2 does not apply, there shall be payable to or in respect of the Member a lump sum benefit of an amount equal to the sum of -

- (i) an amount equal to the product of the Member's Actual Annual Salary as at the date of cessation of Service and the Basic Multiple which would have applied if the Member had continued in Service as a Full Member until (and had retired from all Gainful Work on) the Normal Retirement Date; and
- (ii) an amount equal to the product of the Member's Actual Annual Salary as at the date of cessation of Service and the Preserved Multiple which would have applied if the Member had continued in Service as a Full Member until (and had retired from all Gainful Work on) the Normal Retirement Date,

PROVIDED THAT the amount payable pursuant to the provisions of this Section 3.5.1 shall be subject to a minimum of three (3) times that Member's Actual Annual Salary or such greater minimum as is agreed between the Employer and the Trustee either generally or in any particular case.

3.5.2 Adjustment benefit in special circumstances. If a Full Member's death or Total and Permanent Disablement is related to a mental or physical condition disclosed at a medical examination carried out pursuant to the Rules then (unless otherwise agreed between the Trustee and the Employer) there shall be payable to or in respect of the Member in lieu of the benefit provided for in Section 3.5.1 a lump sum benefit calculated as at date of death or the Date of Disablement, as the case may be, and equal to the sum of -

- (a) an amount equal to the product of the Member's Basic Multiple and Actual Annual Salary; and
- (b) an amount equal to the product of the Member's Preserved Multiple and Final Average Salary.

3.6 **Total and Temporary Disablement Benefit**

3.6.1 Entitlement to income benefit. If a Full Member becomes Totally and Temporarily Disabled (as referred to in Section 3.6.3) while in Service, no benefit shall become payable to or in respect of the Member under any other Section other than as specified in this Section 3.6.

3.6.2 Amount of payment of income benefit

- (a) Subject to the Participation Schedule and the Rules, while a Full Member is Totally and Temporarily Disabled the Trustee shall pay to the Member a monthly income benefit (in this Section called the "income benefit") the amount of which shall be one-twelfth of 75% of the Member's Actual Annual Salary at the Date of Disablement, reduced (unless the Employer determines otherwise) by -
 - (i) any compensation benefit which is or becomes payable or which may reasonably become payable in respect of the Member under any workers compensation or similar scheme having government support or recognition or which is maintained by the Employer, to the extent that such compensation benefit is attributable to an injury, illness or accident giving rise to the income benefit; and
 - (ii) any reward due to the Member in respect of any work carried out by the Member (whether for the Employer or otherwise) while the Member is entitled to receive the income benefit,

PROVIDED THAT, if such a compensation benefit or any such reward is payable in a different manner or form to the income benefit, the income benefit shall be reduced on the basis determined by the Trustee after obtaining the advice of the Actuary **PROVIDED FURTHER THAT** no income benefit shall be payable while the Full Member is eligible for or in receipt of payments pursuant to an award determined sick leave entitlement **PROVIDED ALWAYS THAT** the benefit to which a Member, who was a Full Member of the Transferring Fund on the date of execution of the instrument by virtue of which Section 3.6.2(a) in this form became

effective (the "said day"), shall become entitled under Section 3.6 shall, if greater, be that based on Section 3.6.2(a) in its form on the said day but on the basis that "5%" is substituted for "7%" in Section 3.3.1 and the proviso to Section 3.5.1 is disregarded.

- (b) The income benefit shall be payable on the first day of each calendar month, with the first payment being due on the first day of the calendar month following the month in which falls the Full Member's Date of Disablement and the last payment being due on the first day of the calendar month in which:
 - (i) the Member ceases to be Totally and Temporarily Disabled (as referred to in Section 3.6.3); or
 - (ii) the period of such disablement first exceeds two years,whichever is the earlier.

3.6.3 Meaning of Total and Temporary Disablement

- (a) A Full Member shall be recognised as being Totally and Temporarily Disabled (but not Totally and Permanently Disabled) if the Member is disabled as a result of illness accident or injury and as a result of which:
 - (i) the Member has been continuously absent from employment with the Employer for a period of three consecutive months and the Trustee is not satisfied the disablement is permanent; or
 - (ii) during any one period of disablement the Member is unable, in the opinion of the Trustee after considering such evidence and advice as it considers appropriate, to perform the Member's normal duty as an employee,and if the Member seeks the care and attention of a legally qualified medical practitioner as and when required by the Trustee, submits to the treatment recommended by such a practitioner and otherwise provides such evidence of the Member's continued disablement as the Trustee requires from time to time.
- (b) A Full Member shall cease to be Totally and Temporarily Disabled for the purposes of this Section when -
 - (i) the Member recovers from such disability, the Member engages in or performs any occupation or work for reward, the period of such disablement first exceeds two years as provided for in Section 3.6.2(b), or in the opinion of the Trustee (whose decision shall be final) the Member otherwise fails to satisfy the requirements of paragraph (a) hereof;
 - (ii) the Member becomes Totally and Permanently Disabled;
 - (iii) the Member attains the Normal Retirement Date; or
 - (iv) the Member dies.

3.6.4 Benefits on cessation of Total and Temporary Disablement

- (a) If a Full Member ceases to be Totally and Temporarily Disabled in the circumstances referred to in Section 3.6.3(b)(i) and -
 - (i) if the Member then ceases to be temporarily absent from and returns to Service, the contributions by and in respect of the Full Member shall be payable as specified in the other provisions of the Participation Schedule and, if a Full Member subsequently ceases Service for any reason or becomes disabled or dies, the provisions of the Participation Schedule relating to the benefit payable in those circumstances shall apply; or
 - (ii) if the Full Member does not then rejoin Service or if the Member ceases to be temporarily absent from and does not then return to Service, a benefit shall be paid to the Full Member of an amount equal to -
 - (A) if the Member ceased to be Totally and Temporarily Disabled within 10 years before the Normal Retirement Date, the benefit provided for in Section 3.4 shall be calculated as if the Member had ceased Service on the date the Member ceased to be Totally and Temporarily Disabled and such benefit shall be payable subject to sub-paragraph (ii) of Section 3.4; and
 - (B) in any other case, the benefit provided for in Section 3.8 shall be payable, calculated as if the Member had ceased Service on the date the Member ceased to be Totally and Temporarily Disabled.
- (b) If the Full Member dies or becomes Totally and Permanently Disabled as aforesaid, the benefit referred to in Section 3.5 shall then become payable.
- (c) If the Full Member attains the Normal Retirement Date and thereby ceases to be Totally and Temporarily Disabled, the Member shall be deemed to have retired and the benefit referred to in Section 3.4 shall then become payable, subject to sub-paragraph (ii) of Section 3.4.

3.6.5 Relevant matters in determining benefits. For the purposes of determining the benefits referred to in Section 3.6.4 -

- (a) the Member's annual rate of Salary relating to the Review Date coincident with or next preceding the Date of Disablement shall be deemed to apply up to the date the Member ceases to be Totally and Temporarily Disabled; and
- (b) the Member's Full Plan Membership shall be deemed to include the period from the Date of Disablement up to the date the Member ceases to be Totally and Temporarily Disabled.

3.7 Retrenchment

3.7.1 Relevant Terms. For the purposes of this Section 3.7, in relation to a Full Member -

"Basic Amount" means an amount determined as at the date the Member ceases Service to

be equal to the lesser of -

- (a) an amount equal to 3 times the Member's Accumulated Contributions; or
- (b) the product of the Member's Basic Multiple and Final Average Salary.

"Notional Accrual" means an amount determined as at the date of the Member ceases Service to be equal to the sum of -

- (a) the product of the Member's Basic Multiple and Final Average Salary; and
- (b) the product of the Member's Preserved Multiple and Final Average Salary.

"Notional Accumulation" means an amount determined as at the date the Member ceases Service to be equal to the sum of -

- (a) an amount equal to 3 times the Member's Accumulated Contributions; and
- (b) an amount equal to the Member's Preserved Accumulation.

"Total Amount" means an amount equal to the lesser of the Member's Notional Accrual and the Member's Notional Accumulation.

3.7.2 Entitlement to an amount of benefit. If a Full Member is Retrenched and no benefit is payable under Section 3.4 or Section 3.5, there shall be payable in respect of the Member the total of -

- (a) an immediate lump sum benefit of an amount equal to the Member's Basic Amount; and
- (b) subject to Section 1.8.2(c), a lump sum benefit payable on the Deferral Date of an amount equal to the sum of -
 - (i) the balance, if any, remaining after subtracting the Member's Basic Amount from the Member's Total Amount; and
 - (ii) compound interest at the Declared Rate on the said remaining balance for the period between the date the Member ceased Service and the Deferral Date.

3.8 Other benefits on leaving Service

If a Full Member ceases Service before the Normal Retirement Date and no benefit is payable under Section 3.4, Section 3.5 or Section 3.7, there shall be payable to the Member -

- (a) (i) a lump sum benefit equal to the multiple of the Member's Accumulated Contributions calculated in accordance with the following table depending upon the number of years of Full Plan Membership completed by the Member -

TABLE	
Years of Full Plan Membership	Multiple of Member's Accumulated Contributions
1	1.0
2	1.0
3	1.3
4	1.4
5	1.5
6	1.6
7	1.7
8	1.8
9	1.9
10 or over	2.0

PROVIDED THAT any part of the benefit in excess of the Member's Accumulated Contributions shall be payable to the Member as at the Deferral Date;

or

- (ii) if the Member has completed 5 or more years of Full Plan Membership, the Member may by written notice given to the Trustee within such period and in such form as the Trustee may require, elect to receive in lieu of the benefit referred to in sub-paragraph (a)(i) above a deferred lump sum benefit equal to a multiple of the Member's Accumulated Contributions calculated in accordance with the following table depending upon the number of years of Full Plan Membership completed by the Member and payable upon the Member attaining the Normal Retirement Date or (at the Member's election) on or after attaining the minimum retiring age for Employees or earlier in the event of death or Total and Permanent Disablement –

TABLE	
Years of Full Plan Membership	Multiple of Member's Accumulated Contributions
5	1.6
6	1.7
7	1.8
8	1.9
9	2.0
10	2.1
11	2.2
12	2.3
13	2.4
14	2.5
15 and over	2.6

and

- (b) in any case, subject to Section 1.8.2(c), a lump sum benefit payable as at the Deferral Date of an amount equal to the Member's Preserved Accumulation as at the Deferral Date.

3.9 Additional Benefits for Additional Contributions

3.9.1 Benefits. Upon the withdrawal or retirement of a Member from the Service for any reason including Total and Permanent Disablement or upon the death of a Member while in the Service there shall be paid from the Sub-Division to or in respect of the Member in addition to the benefits payable pursuant to the other provisions of the Participation Schedule and the Rules, a lump sum benefit equal to the sum of -

- (a) all additional contributions (if any) made by the Member to the Transferring Fund (pursuant to rule 3.3.4 of the Transferring Fund Rules prior to the Commencement Date) and to the Sub-Division pursuant to Section 3.3.4 less any tax, costs or charges that the Trustee may reasonably require or is permitted to deduct from such contributions; and
- (b) compound interest on the amount referred to in Section 3.9.1(a) at the "Declared Rate" pursuant to the Transferring Fund Rules in respect of the period prior to the Commencement Date and at the Declared Rate thereafter.

PROVIDED THAT the benefit payable pursuant to this Section 3.9 shall be reduced to the extent that the benefit is taken into account in the provision of any other benefit provided for pursuant to the Participation Schedule and the Rules **PROVIDED FURTHER THAT** any amount payable under this Section 3.9.1 may be paid as an immediate lump sum, or, if the Member has elected a deferred lump sum benefit in accordance with Section 3.8(a)(ii), may, if the Member so elects, be deferred until payment of the said deferred lump sum benefit pursuant to Section 3.8(a)(ii).

3.9.2 Payment on Death. Any benefit payable pursuant to the provisions of Section 3.9.1 after the death of a Member shall be payable by the Trustee subject to and in accordance with Section 1.6.

3.10 Benefit in Respect of Provisional Membership

3.10.1 Benefit. Upon the withdrawal or retirement of a Full Member from the Service for any reason including Total and Permanent Disablement or upon the death of a Member while in the Service there shall be paid from the Sub-Division, subject to the provisions of Rule A1.10, to or in respect of that Full Member in addition to the benefits payable pursuant to the other provisions of this Part 3, the lump sum amount (if any), which, in the opinion of the Trustee and the Employer, is attributable to that Full Member's immediately preceding period of Plan Membership (if any) while a Provisional Member **PROVIDED THAT** the benefit payable pursuant to this Section 3.10 shall be reduced to the extent that the benefit is taken into account in the provision of any other benefit provided for pursuant to the Participation Schedule and the Rules.

3.10.2 Payment on Death. Any benefit payable pursuant to the provisions of Section 3.10.1 after the death of a Member shall be payable by the Trustee subject to and in accordance with Section 1.6.

Part 4 – Previous Fund Members

4.1 Application of Part 4

This Part 4 shall apply to and in respect of each Previous Fund Member, subject always to the Participation Schedule and Part 1 of the Rules, and in this Part 4 "Member" shall mean a Previous Fund Member as named in the schedule to this Part 4.

4.2 Definitions

In this Part 4, unless the contrary intention appears or the context requires otherwise -

"Basic Contributions" means contributions payable pursuant to the provisions of Section 4.3.1 and any contributions made under rule 4.3.1 of the Transferring Fund Rules in the period prior to the Commencement Date.

"Basic Multiple" means in relation to a Previous Fund Member, the multiple in respect of each Previous Fund Member as specified in the schedule to this Part 4 assuming that the Member will contribute at the Selected Rate of 5% throughout the period of Previous Fund Member Plan Membership to the Normal Retirement Date **PROVIDED THAT** -

- (a) if a Member at any time elects pursuant to Section 4.3 to contribute to the Sub-Division (or pursuant to rule 4.3 of the Transferring Fund Rules in respect of the period immediately before the Commencement Date) at a Selected Rate other than 5% during his or her period of Previous Fund Member Plan Membership then the Basic Multiple shall be adjusted by the Trustee on the advice of the Actuary to take account of the period or periods of Previous Fund Member Plan Membership in respect to such change or changes in the Basic Contributions for the purposes of the Participation Schedule and Rules; and
- (b) if a Previous Fund Member ceases Service before attaining his or her Normal Retirement Date, then the Basic Multiple shall be adjusted by the Trustee on the advice of the Actuary having regard to the period of complete months between the Member's date of ceasing Service and the Member's Normal Retirement Date,

PROVIDED FURTHER THAT the decision of the Trustee pursuant to paragraphs (a) and (b) above (as applicable) shall be final and binding on the Member and all other interested persons and where the Member's Basic Multiple is so adjusted the Member shall be notified of the new multiple within such period as the Trustee shall determine.

"Final Average Salary" means in relation to a Member the average of the Member's annual rate of Salary on the Review Dates during the period of 3 years immediately preceding the earlier of the date the Member ceased to be employed by the Employer or the Normal Retirement Date or such later date that the Member ceases Service (as appropriate) **PROVIDED THAT**, if as at the earlier of such dates the Member has been a Member for less than 3 years (including the period as a member of the Transferring Fund immediately before the Commencement Date), then (unless otherwise determined by the Employer) the

average of the Member's annual rate of Salary on the Review Dates during the period of the Member's actual membership of the Transferring Fund and the Sub-Division shall be taken **PROVIDED FURTHER THAT** in the case of a Member who ceases to be employed by the Employer after his or her Normal Retirement Date the Final Average Salary shall not be less than would have been applicable in respect of a Member if he or she had ceased Service at his or her Normal Retirement Date.

"Member" means a Member to whom this Part 4 applies.

"Previous Fund Membership" means in relation to a Previous Fund Member who transferred to the Transferring Fund as at the Transfer Date the most recent uninterrupted period during which the Member was both a member of the Previous Fund and an employee of an employer who participated in that Previous Fund.

"Previous Fund Member Plan Membership" means in relation to a Member the period of the Member's Plan Membership on and after the Transfer Date during which the Member was classified as a Previous Fund Member under the Transferring Fund Rules and under this Part 4.

"Retrenchment" means a reduction of staff declared by the Employer to be retrenchment for the purposes of the Participation Schedule and "Retrenched" shall have a corresponding meaning.

"Selected Rate" means -

- (a) the rate, for the time being, of Basic Contributions at which the Previous Fund Member contributes; or
- (b) in respect of a Previous Fund Member who, pursuant to the provisions of the Participation Schedule and/or the Rules, was deemed to contribute to the Transferring Fund and is deemed to contribute to the Sub-Division for the time being, the rate of Basic Contributions last selected (or deemed to have been selected) by that Member.

4.3 Member contributions

4.3.1 **Basic amount to be contributed.** Subject to the Participation Schedule and the Rules, each Previous Fund Member shall (except while entitled to the payment of a benefit in terms of Section 4.6) in respect of each Review Period contribute a basic amount to the Sub-Division, according to the Member's normal pay period, at whichever of the following rates the Member last selected, which selection may, unless the Employer with the approval of the Trustee otherwise determines, be made at any time within a Review Period:

- (a) 5% of the Member's annual rate of Salary as at the commencement of that Review Period; or
- (b) 7% of the Member's annual rate of Salary as at the commencement of that Review Period,

PROVIDED THAT a Previous Fund Member shall until he or she makes an election under this Section contribute at the rate of contribution being made by the Member to the

Transferring Fund immediately before the Commencement Date.

- 4.3.2 Period of payment of Basic Contributions. Basic Contributions by a Previous Fund Member shall commence on the date on which the Member becomes a Previous Fund Member and shall cease on the Normal Retirement Date or on cessation of Service, whichever is the earlier **PROVIDED THAT** if the Relevant Law permits a Member to contribute to the Sub-Division after his or her Normal Retirement Date then such a Member may continue to contribute Basic Contributions until his or her cessation of Service.
- 4.3.3 Adjustment in certain circumstances. Subject to the Relevant Law, if a Previous Fund Member is absent from Service with or without remuneration from the Employer, the Member shall pay the Member's Basic Contributions, at the Selected Rate applicable at the commencement of the absence from Service, to the Trustee for the period of the Member's absence unless the Employer and the Trustee in their discretion shall otherwise determine. It shall be at the discretion of the Employer with the approval of the Trustee as to whether or not the Member shall also pay the appropriate Employer's contributions payable for that period in respect of benefits provided for in respect of the Member. In the event of the cessation of all or part of the contributions by and in respect of a Previous Fund Member during any period of absence, the benefits payable under the Rules in respect of the Member shall be adjusted in such manner as the Trustee thinks fit after considering appropriate advice.
- 4.3.4 Additional Contributions. In addition to any contributions which the Member is required to pay to the Sub-Division under Section 4.3.1 a Previous Fund Member may, with the approval of the Trustee and the Employer, contribute further amounts on such basis and subject to such conditions (if any) as may be agreed between the Member, the Employer and the Trustee.
- 4.3.5 Period of payment of Additional Contributions. Any additional contributions permitted pursuant to Section 4.3.4 shall commence on such date as the Employer with the approval of the Trustee determines either generally or in any particular case and shall cease on the earliest of:
- (a) Normal Retirement Date;
 - (b) cessation of Service; or
 - (c) such other date as the Employer with the approval of the Trustee determines either generally or in any particular case,

PROVIDED THAT if the Relevant Law permits a Member to contribute after his or her Normal Retirement Date then such a Member may contribute additional contributions until his or her subsequent cessation of Service.

- 4.3.6 Method of payment of all contributions
- (a) Unless the Employer otherwise determines or the law does not so allow, all contributions payable by a Previous Fund Member shall be deducted from each payment of or on account of the Member's remuneration and, subject to the Relevant Law, shall be paid to the Sub-Division by the Employer in the manner and at the times agreed between the Trustee and the Employer or, in the event of failure to

agree, as reasonably determined by the Trustee.

- (b) If the Employer does not wish to make deductions in respect of a Previous Fund Member's contributions or if the law does not allow the deduction of contributions, the Member shall pay contributions to the Sub-Division as and when the Member receives each payment of or on account of the Member's remuneration in such manner as the Trustee may determine with the approval of the Employer.

4.4 Retirement Benefit

If a Previous Fund Member ceases Service -

- (a) on the Normal Retirement Date; or
- (b) not more than 10 years before the Normal Retirement Date,

and no benefit is payable under Section 4.5, there shall be payable to the Member a lump sum benefit of an amount equal to the product of the Member's Basic Multiple and Final Average Salary.

4.4A Late Retirement Benefit

If a Previous Fund Member ceases Service after his or her Normal Retirement Date there shall be payable to or in respect of that Member -

- (a) in the case of a Previous Fund Member who continues in the employ of an Employer after his or her Normal Retirement Date and continues to make Basic Contributions to the Sub-Division up until the date he or she ceases Service the Member shall be entitled to a lump sum benefit of an amount equal to the product of the Member's Basic Multiple and Final Average Salary; or
- (b) in the case of a Previous Fund Member who continues in the employ of an Employer after his or her Normal Retirement Date and ceases to make Basic Contributions on and from his or her Normal Retirement Date, the Member shall be entitled to a lump sum benefit calculated in accordance with Section 4.4 as if the Member had ceased Service at his or her Normal Retirement Date together with interest thereon at the Declared Rate in respect of the period from the Member's Normal Retirement Date to the date he or she ceases Service **PROVIDED THAT** such a Member shall be entitled to an additional benefit sufficient to satisfy the requirements of Section 1.5.8 in respect of the Member's period of employment with an Employer on and after his or her Normal Retirement Date until the date the Member ceases Service.

4.5 Death or Total and Permanent Disablement while in Service

If a Previous Fund Member -

- (a) dies while in Service before the Normal Retirement Date; or
- (b) ceases Service by reason of Total and Permanent Disablement suffered while in Service,

there shall be payable to or in respect of the Member a lump sum benefit of an amount equal to the product of the Member's Actual Annual Salary as at the date of cessation of Service and the Basic Multiple which would have applied if the Member had continued in Service until (and had retired from all Gainful Work on) the Normal Retirement Date **PROVIDED THAT** the amount payable pursuant to the provisions of this Section 4.5 shall be subject to a minimum of three (3) times that Member's Actual Annual Salary or such greater minimum as is agreed between the Employer and the Trustee either generally or in any particular case.

4.6 **Total and Temporary Disablement Benefit**

4.6.1 **Entitlement to income benefit.** If a Previous Fund Member becomes Totally and Temporarily Disabled (as referred to in Section 4.6.3) while in Service, no benefit shall become payable to or in respect of the Member under any other Section other than as specified in this Section 4.6.

4.6.2 **Amount of payment of income benefit**

(a) Subject to the Participation Schedule and the Rules, while a Previous Fund Member is Totally and Temporarily Disabled the Trustee shall pay to the Member a monthly income benefit (in this Section called the "income benefit") the amount of which shall be one-twelfth of 75% of the Member's Actual Annual Salary at the Date of Disablement, reduced (unless the Employer determines otherwise) by -

- (i) any compensation benefit which is or becomes payable or which may reasonably become payable in respect of the Member under any workers compensation or similar scheme having government support or recognition or which is maintained by the Employer, to the extent that such compensation benefit is attributable to an injury, illness or accident giving rise to the income benefit; and
- (ii) any reward due to the Member in respect of any work carried out by the Member (whether for the Employer or otherwise) while the Member is entitled to receive the income benefit,

PROVIDED THAT, if such a compensation benefit or any such reward is payable in a different manner or form to the income benefit, the income benefit shall be reduced on the basis determined by the Trustee after obtaining the advice of the Actuary **PROVIDED FURTHER THAT** no income benefit shall be payable while the Previous Fund Member is eligible for or in receipt of payments pursuant to an award-determined sick leave entitlement.

(b) The income benefit shall be payable on the first day of each calendar month, with the first payment being due on the first day of the calendar month following the month in which falls the Previous Fund Member's Date of Disablement and the last payment being due on the first day of the calendar month in which:

- (i) the Member ceases to be Totally and Temporarily Disabled (as referred to in Section 4.6.3); or
- (ii) the period of such disablement first exceeds two years,

whichever is the earlier.

4.6.3 Meaning of Total and Temporary Disablement

- (a) A Previous Fund Member shall be recognised as being Totally and Temporarily Disabled (but not Totally and Permanently Disabled) if the Member is disabled as a result of illness accident or injury and as a result of which:
 - (i) the Member has been continuously absent from employment with the Employer for a period of three consecutive months and the Trustee is not satisfied the disablement is permanent; or
 - (ii) during any one period of disablement the Member is unable in the opinion of the Trustee after considering such evidence and advice as it considers appropriate, to perform the Member's normal duty as an employee,

and if the Member seeks the care and attention of a legally qualified medical practitioner as and when required by the Trustee, submits to the treatment recommended by such a practitioner and otherwise provides such evidence of the Member's continued disablement as the Trustee require from time to time.

- (b) A Previous Fund Member shall cease to be Totally and Temporarily Disabled for the purposes of this Section when -
 - (i) the Member recovers from such disability, the Member engages in or performs any occupation or work for reward, the period of such disablement first exceeds two years as provided for in Section 4.6.2(b), or in the opinion of the Trustee (whose decision shall be final) the Member otherwise fails to satisfy the requirements of paragraph (a) hereof;
 - (ii) the Member becomes Totally and Permanently Disabled;
 - (iii) the Member attains the Normal Retirement Date; or
 - (iv) the Member dies.

4.6.4 Benefits on cessation of Total and Temporary Disablement

- (a) If a Previous Fund Member ceases to be Totally and Temporarily Disabled in the circumstances referred to in Section 4.6.3(b)(i) and -
 - (i) if the Previous Fund Member then ceases to be temporarily absent from and returns to Service, the contributions by and in respect of the Previous Fund Member shall be payable as specified in the other provisions of the Participation Schedule and, if a Previous Fund Member subsequently ceases Service for any reason or becomes disabled or dies, the provisions of the Participation Schedule relating to the benefit payable in those circumstances shall apply; or
 - (ii) if the Previous Fund Member does not then rejoin Service or if the Member

ceases to be temporarily absent from and does not then return to Service, a benefit shall be paid to the Previous Fund Member of an amount equal to -

(A) if the Member ceased to be Totally and Temporarily Disabled within 10 years before the Normal Retirement Date, the benefit provided for in Section 4.4 shall be calculated as if the Member had ceased Service on the date the Member ceased to be Totally and Temporarily Disabled; and

(B) in any other case, the benefit provided for in Section 4.8 shall be payable, calculated as if the Member had ceased Service on the date the Member ceased to be Totally and Temporarily Disabled.

(b) If the Previous Fund Member dies or becomes Totally and Permanently Disabled as aforesaid, the benefit referred to in Section 4.5 shall then become payable.

(c) If the Previous Fund Member attains the Normal Retirement Date and thereby ceases to be Totally and Temporarily Disabled, the Member shall be deemed to have retired and the benefit referred to in Section 4.4 shall then become payable.

4.6.5 Relevant matters in determining benefits. For the purposes of determining the benefits referred to in Section 4.6.4 -

(a) the Member's annual rate of Salary relating to the Review Date coincident with or next preceding the Date of Disablement shall be deemed to apply up to the date the Member ceases to be Totally and Temporarily Disabled; and

(b) the Member's Previous Fund Member Plan Membership shall be deemed to include the period from the Date of Disablement up to the date the Member ceases to be Totally and Temporarily Disabled.

4.7 **Retrenchment**

If a Previous Fund Member ceases Service by reason of Retrenchment and no benefit is payable under another Section of Part 4, there shall be payable in respect of the Member a lump sum benefit determined at the date he or she ceases Service to be equal to the lesser of-

(a) a lump sum equal to the sum of -

(i) an amount equal to 3 times the Member's Accumulated Contributions;

(ii) an amount equal to 3 times the Member's Previous Fund Accumulation;

(iii) an amount equal to the Member's Former Fund Minimum Benefit (if any);

and

(b) a lump sum equal to the sum of -

(i) an amount equal to the product of the Member's Basic Multiple and Final Average Salary; and

- (ii) if the Previous Fund Member was a member of the former fund Elders-ANL Pty Ltd Staff Superannuation Fund immediately prior to becoming a member of the Previous Fund an amount equal to the product of such multiple determined in accordance with rule 5(1)(ii) of the rules of the Previous Fund and the Member's Final Average Salary as advised by the Transferring Trustee to the Trustee.

4.8 **Other Benefits on Leaving Service**

If a Previous Fund Member ceases Service before the Normal Retirement Date and no benefit is payable under Section 4.4, Section 4.5 or Section 4.7, there shall be payable to the Member a lump sum benefit equal to the sum of -

- (a) the sum of -
 - (i) an amount equal to the Member's Accumulated Contributions;
 - (ii) an amount equal to the Member's Previous Fund Accumulation;
 - (iii) an amount equal to the Member's Former Fund Minimum Benefit (if any);

and

- (b) an amount equal to the multiple of the sum of the amounts specified in sub-paragraphs (i) and (ii) of paragraph (a) above calculated using the multiple relevant to the Member in accordance with the following table depending upon the number of years of combined Previous Fund Member Plan Membership and Previous Fund Membership completed by the Member to the date of ceasing Service -

TABLE	
Years of Combined Previous Fund Member Plan Membership and Previous Fund Membership	Previous Fund Member's Multiple
1	0.1
2	0.2
3	0.3
4	0.4
5	0.5
6	0.6
7	0.7
8	0.8
9	0.9
10	1.0
11	1.1
12	1.2
13	1.3
14	1.4
15 or more	1.5

4.9 **Additional Benefits for Additional Contributions**

4.9.1 **Benefits.** Upon the withdrawal or retirement of a Member from Service for any reason including Total and Permanent Disablement or upon the death of a Member while in the Service there shall be paid from the Sub-Division to or in respect of the Member in addition to the benefits payable pursuant to the other provisions of the Participation Schedule and the Rules, a lump sum benefit equal to the sum of -

- (a) all additional contributions (if any) made by the Member to the Transferring Fund (pursuant to rule 4.3.4 of the Transferring Fund Rules) and to the Sub-Division pursuant to Section 4.3.4 less any tax, costs or charges that the Trustee may reasonably require or is permitted to deduct from such contributions; and
- (b) compound interest on the amount referred to in Section 4.9.1(a) at the "Declared Rate" pursuant to the Transferring Fund Rules in respect of the period prior to the Commencement Date and at the Declared Rate thereafter,

PROVIDED THAT the benefit payable pursuant to this Section 4.9 shall be reduced to the extent that the benefit is taken into account in the provision of any other benefit provided for pursuant to the Participation Schedule and the Rules.

4.9.2 **Payment on Death.** Any benefit payable pursuant to the provisions of Section 4.9.1 after the death of a Member shall be payable by the Trustee subject to and in accordance with Section 1.6.